

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

CHRISTENSEN, Mikael, T.
c/o Oticon A/S
Strandvejen 58
DK-2900 Hellerup
DANEMARK

MODTAUGT

6 DEC 2005

PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(PCT Rule 71.1)

Date of mailing (day/month/year)	05.12.2005
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Applicant's or agent's file reference P-2003-027WO	IMPORTANT NOTIFICATION	
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International application No. PCT/DK2004/000796	International filing date (day/month/year) 18.11.2004	Priority date (day/month/year) 26.11.2003
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Applicant OTICON AS

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/I/B/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international preliminary examining authority:	Authorized Officer
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European Patent Office - P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk - Pays Bas
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl
Fax: +31 70 340 - 3016

Authorized Officer

Bello, M
Tel. +31 70 340-3704



PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P-2003-027WO	FOR FURTHER ACTION	
See Form PCT/IPEA/416		
International application No. PCT/DK2004/000796	International filing date (day/month/year) 18.11.2004	Priority date (day/month/year) 26.11.2003
International Patent Classification (IPC) or national classification and IPC G10K11/178		
Applicant OTICON AS		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 1 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand 26.09.2005	Date of completion of this report 05.12.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Fülöp, I Telephone No. +31 70 340-1963	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/DK2004/000796

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the elements* of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

Description, Pages

1-4 as originally filed

Claims, Numbers

1-4 received on 30.09.2005 with letter of 26.09.2005

Drawings, Figures

1, 2 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos. 5
 - the drawings, sheets/figs
 - the sequence listing (specify):
 - any table(s) related to sequence listing (specify):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (specify):
 - any table(s) related to sequence listing (specify):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/DK2004/000796

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-5
Inventive step (IS)	Yes: Claims	
	No: Claims	1-5
Industrial applicability (IA)	Yes: Claims	1-5
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/DK2004/000796

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

I. Reference is made to the following document:

D1: US-B1-6 445 799 (TAENZER JON C ET AL) 3 September 2002 (2002-09-03)

II. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claims 1-4** is not new in the sense of Article 33(2) PCT.

II.1. Document D1, which appears to be the closest prior art document, discloses (the references in parentheses applying to this document):

"A hearing aid (col.4, line 40) comprising a signal path with an input transducer (21), a signal processor (27) and an output transducer (22), where an auxiliary input ("external device" in figure 2) is provided to the signal path, the signal processor being adapted to produce a compensation signal capable of at least partly attenuating acoustic signals bypassing the signal path and entering the ear canal (col.4, lines 30-39)"

Claim 1 infringes thus Article 33(2) PCT.

II.2. Document D1 discloses also all the features of dependent **claims 2-4** (see, especially, figure 2 and col.6, lines 33-38 wherein the term "turning knob" is considered to be the same as "switching means" in the wording of the claims).

Claims 2-4 infringe thus also Article 33(2) PCT.

I.L.Fülöp

PCT/DK2004/000796

Amended claims 26-09-2005

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CLAIMS

1. A hearing aid comprising a signal path with an input transducer, a signal processor and an output transducer, where an auxiliary input is provided to the signal path, the signal processor being adapted to produce a compensation signal capable of at least partly attenuating acoustic signals bypassing the signal path and entering the ear canal.
5
2. A hearing aid according to claim 1, where the hearing aid further comprises at least one internal input transducer for obtaining a sound signal within the ear canal, the internal input transducer being connected to the signal path.
10
3. A hearing aid according to claim 1 or 2, where switching means are provided for switching the signal processor to a state where the compensation signal is generated.
15
4. A hearing aid according to claim 3, where the switching means are adapted for automatically generating the compensation signal upon receiving the auxiliary input.
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EPO - DG 1

30.09.2005

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